

11.10.2007.Present: Mr.Bimal Gupta, counsel for the petitioners.
Mr. R.M. Bisht, Dy.A.G., for respondents No.1 to 4.

On 26.6.2007, we had passed a detailed order, which reads as follows:

"The main dispute in this writ petition is with regard to the nature and classification of the land comprised in Khasra No.210 measuring 27-1 bighas which is entered as "Gair Mumkin Khala" in the revenue record. According to the petitioner, out of the entire khasra No.210 measuring 29-1 bighas, 2 bighas is Chahi. Out of the remaining 27-1 bighas, the Field Kanungo, Amla has found that only 1-14 bigha land is Khala and rest is Banjar Kadeem. These orders have been reviewed by the revenue authorities. The petitioner has also sold this land and because of the classification in the revenue record, the sale deed could not be registered. Since the only dispute is with regard to the classification of the land, we deem it fit and proper to appoint a Local Commissioner to visit the spot. He shall visit the spot and shall submit his report with regard to the classification of the entire khasra No.210. We accordingly appoint the District Revenue Officer, Sirmaur as the Local Commissioner. He shall visit the spot in the presence of the petitioner and other local villagers. He shall inform the local villagers by beat of drum about the date and time on which he wants to visit the spot. The inspection shall be done on or before 31st July, 2007 and the report shall be submitted to this Court before 7th August, 2007.

List the matter on 9th August, 2007. The fee of the Local Commissioner (DRO, Sirmaur) is fixed at Rs.3000/- which shall be paid to him directly by the petitioner within two weeks from today."

In terms of the order passed by this Court, the Local Commissioner filed its report and as per the report of the Local Commissioner, on the spot he found the position to be as follows:

"As per the spot position explained herein above the Khasra No.210 as of today can virtually be classified as under:

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|----|--|---------------|
| 1. | Gair Mumkin Nallah | = 1-14 Bighas |
| 2. | Gair Mumkin Factories/Plot (sold area) | = 2-0 Bighas |
| 3. | Gair Mumkin Road (Katcha) | = 1-4 Bighas |

5. *Gair Mumkin Temporary Labour-Sheds = 0-6 Bighas"*

Even after this report was filed, the learned Advocate General had expressed apprehension that the Nallah may not cause damage to the other land. Therefore, we had directed the petitioners to state whether they are willing to construct a retaining wall so as to ensure the channelization of water and to protect the other land, vide our order dated 10.9.2007. The petitioner has filed his affidavit alongwith a plan wherein he has undertaken to construct a retaining wall measuring 310 ft. in length and about 8-10 ft. in height on the other side of the Nallah. Despite two opportunities given, no response has been received from the State.

Therefore, we dispose of this writ petition with a direction that the classification of the land except land measuring 1-14 bigha, which is a Nallah, be changed as per the position report given by the Local Commissioner. The writ petition is disposed of accordingly. No order as to costs.

CMP No.628 of 2007:

In view of the final disposal of the main petition, this application also stands disposed of.

(Deepak Gupta), J.

October 11, 2007.
(TILAK)

(V.K. Ahuja), J.